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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/821,741
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	First Named Inventor	Stuffle et al.
	Art Unit	2875
	Examiner Name	William J. Carter
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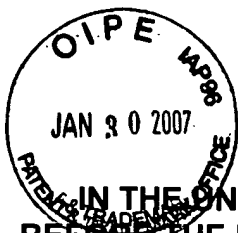
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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No.: 10/821,741  
Filing Date: April 9, 2004  
Applicant: Warner Stuffle Et Al.  
Group Art Unit: 2875  
Examiner: William Joseph Carter  
Title: LOUDSPEAKER UNIT WITH SOURCE OF LIGHT  
Attorney Docket: SCH-00086

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**REPLY BRIEF**

Sir:

This is a Reply Brief in response to the Examiner's Answer mailed November 22, 2006, in which a timely response is due by January 22, 2007.

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## **Response To Examiner's Answer**

### **Whether Claims 1 and 4-10 are Rendered Obvious under 35 U.S.C. § 103(a)**

The Examiner stated under paragraph (9) of the Examiner's Answer to the Appeal Brief that claims 1 and 4-10 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6, 545,418 to Kolpasky hereafter (Kolpasky '418) in view of U.S. Patent No. 6,158,869 to Barnes (hereafter Barnes '869). Applicant respectfully maintains that Examiner has failed to establish a prima facie case of obviousness.

Applicant maintains that the combination of Kolpasky '418 in view of Barnes '869 does not teach or suggest at least one light source being installed in the chassis of a speaker outside of a diaphragm as required by claims 1 and 4-10 of the present application. See claim 1 of the present invention from which claims 4-10 depend. Further, Applicant maintains that the Examiner's combination of references is not supported by the references because they teach away from the combination. A prima facie case of obviousness cannot be established where one or more of the references in the proposed combination teaches away from the proposed combination. "It is improper to combine references where the references teach away from their combination." *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

Applicant respectfully submits that Kolpasky '418 in view of Barnes '869 clearly teaches away from at least one speaker having a chassis and at least one light source, said at least one light source being installed in the chassis of a speaker outside of a diaphragm and at least one light source is electrically

connected to a direct-current network on board the motor vehicle. See claim 1 of the present invention from which claims 4-10 depend.

The Examiner's Response calls feature (22) of Kolpasky '418 a diaphragm, and that it "is not a traditional speaker, and because it is flat it does not create the interior space or outside area . . . ." See Examiner's Response at pages 6-7. Applicant disagrees. Applicant argues that Kolpasky '418 clearly teaches away from the present invention because Kolpasky '418 teaches eliminating the chassis and diaphragms with new technology of flat panel distributed-mode loudspeakers. See Kolpasky '418. The specification of Kolpasky '418 states:

[i]n the past, such speaker systems utilized conventional loudspeakers of the type wherein pistonic motion of a diaphragm (i.e., a generally conical diaphragm moves as a rigid whole) is achieved by some method of transduction, e.g., eletromagnetic, electrostatic, piezoelectric, etc,. Such speakers are sometimes bulky, thus requiring that additional space be provided to accommodate their placement. In the case of door-mounted speakers, this could result in the necessity for doors thicker than would otherwise be required. Furthermore, the mounting of such speakers in the rear deck could result in a reduction of available trunk space. Finally, not only do traditional loudspeakers display variation in directivity with frequency, but also their sound performance is further degraded as a result of mounting them in undesirable locations such as the doors of a vehicle's passenger compartment. Col. 1, lines 22-37.

Thus Kolpasky '418 teaches away from speakers that have a chassis and diaphragm because Kolpasky '418 must eliminate these structures to achieve its desired result. Therefore Kolpasky could not be combinable with Barnes '869. For this reason alone the prima facie case of obviousness set fourth by the Examiner is not proper and the rejection of claims 1 and 4-10 should be removed.

In further regard to the prima facie case of obviousness set fourth above, Applicant also maintains that Barnes '869 fails to remedy the deficiencies of Kolpasky '418. The Examiner's response stated Barnes '869 teaches a "traditional speaker (12) with a light source (18) disposed outside a diaphragm." See Examiner's Response at page 6. Applicant disagrees and argues that there is nothing in the specification or drawings of Barnes '869 that even teaches a speaker structures, such as a diaphragm. The structures that generate the sound are never discussed in Barnes '869. The Examiner's answer along with the final office action continues to remain silent on this issue. The Examiner's answer states that that the diaphragm is shown in Fig. 2. There is nothing in Fig. 2 or the specification that identifies a diaphragm structure. Furthermore, as discussed above, Kolpasky '418 teaches eliminating diaphragms and chassis; therefore, the proposed combination of Kolpasky '418 in view of Barnes '869 should fail because the proposed combination does not even teach or suggest the required elements of claims 1 and 4-10 such as a chassis, diaphragm or light outside of the diaphragm. Removal of the rejection is respectfully requested.

In even further regard to the prima facie case of obviousness as issue Applicant maintains that if it were determined that the proposed combination of patents does have a speaker than Barnes '869 used for the purpose that the Examiner intended would teach away from the proposed combination. The Examiner's answer stated that Kolpasky '418 does not show at least one light source installed outside of the diaphragm in the manner claimed because Kolpasky '418 does not teach a traditional speaker diaphragm. See Examiner's answer page 3. The Examiner relied upon Barnes '869 for the purpose of

teaching a traditional speaker with a light source disposed outside of a diaphragm. See Examiner's answer page 4. Barnes '869 teaches that the lighting device is disposed in an opening in a **grille** face, and extends behind the opening where sound is being transmitted.<sup>1</sup> Barnes does not teach or suggest what structure is producing the sound. Assuming arguendo that the sound source is a diaphragm then the light source of Barnes '869 is not installed in the **chassis** of a speaker **outside of a diaphragm**. Fig. 2 of Barnes '869 teaches a grille 16 through which acoustic energy is transmitted. See Barnes '869 at Col. 3, lines 10-17. The lighting device 18 is attached to the grille 16. See Barnes '869 at Col. 3, lines 66-67. Therefore the lighting device 18 is positioned in the path of sound, thus it is not outside of the diaphragm if there is one taught by Barnes '869. For all of the above reasons claims 1 and 4-10 cannot be rendered obvious and removal of the rejection is requested.

### **Conclusion**

In conclusion Applicant notes that none of the proposed combination of references cited by the Examiner render the pending claims of the present application obvious. More specifically none of the combinations of references teach or suggest the limitation of "at least one light source installed in the chassis of a speaker outside of a diaphragm..." See claim 1 of the present application

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<sup>1</sup> Barnes '869 teaches that the light emitting device "18 is attached to grille 16 by inserting device 18 through opening 28 . . . . Device 18 is then inserted within channel 44 . . . ." See Barnes '869 Col 3, lines 66-67, Col 4, lines 2-3, Fig 2, and Fig 3. See Col 3, lines 19-20. "Diodes 52 are connected to one another by a porous metal plate or slotted wiring 54 **to allow a maximum amount of sound to be transmitted from the audio device through device 18**" See Col 4, lines 60-63 (emphasis added).



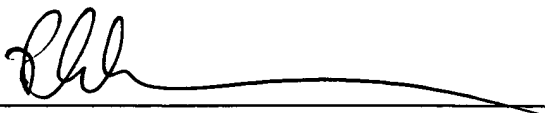
from which claims 2-10 depend. For this reason, Applicant respectfully requests removal of the rejection of claims 1-10 and allowance thereof.

Please send all future correspondence relating to this application to Warn, Hoffmann, Miller & LaLone, P.C., P.O. Box 70098, Rochester Hills, MI 48307.

Respectfully submitted,

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Dated: January 22, 2007

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